IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 27400 of 2007(J)

OS.190/1981 of PRL.SUB COURT,TRIVANDRUM

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PETITIONER:

USHA K.NAIR, AGED 46,
W/O LATE V.R.K.NAIR,
T.C.28/906, PALKULANGARA,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.SASITH

RESPONDENT:

STATE BANK OF TRAVANCORE, MAIN BRANCH
THIRUVANANTHAPURAM, REPRESENTED BY ITS
BRANCH MANAGER.

BY SC. SRI. R.S. KALKURA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.27400 of 2007

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Dated this the 14th day of September, 2007.

JUDGMENT

This Writ Petition is filed for a direction to dispose of Exts.P7 and P8 and thereafter hear Ext.P6 within a time limit fixed by this Court. Ext.P6 application is one for setting aside the sale filed under Order 21 Rule 90 of the Code of Civil Procedure. It has been dismissed for non-prosecution. Thereafter, the present writ petitioner has moved applications to condone the delay of 41 days in filing the application and also to restore Ext.P6 application, which was dismissed for default. Learned counsel for the writ petitioner submits before me that those applications are also dismissed by the court. So strictly speaking nothing survives for consideration at this stage.

2. The State Bank of Travancore is the decree holder. It has bid the property in auction and the sale is confirmed. Now, counsel for the writ petitioner submits that his client is prepared to pay off the liability within a stipulated time; so that he can save the property. The Bank is also represented by counsel and he has not received full instructions from the Bank. I feel that being a Government Bank, it may be more interested in receiving the amount rather than to get at the property.

3. Therefore, I feel that an opportunity can be given to the

writ petitioner to approach the Bank for a settlement of the matter. If the writ petitioner is prepared to pay the entire outstanding dues plus the expenses incurred for the sale including percentage of discount, contemplated under Order 21 Rule 89 of Code of Civil Procedure, the Bank can certainly consider the request of the writ petitioner sympathetically and take a decision. The writ petitioner shall move the Bank and settle the matter within a period of two months from today and in order to enable him to do so, I direct the court below to defer the delivery of the property by two months from today and on failure to settle the matter, order delivery of the property thereafter.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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